

**MOTION BY SUPERVISOR YVONNE B. BURKE**

**JULY 3, 2007**

On January 30, 2007, the Board unanimously approved my motion in support of state legislation that would promote the availability of calorie and nutritional labeling by requiring retail food facilities to post this information on their menus and menu boards. SB 120 (Padilla) which would require nutritional labeling in California has passed the Senate and is now in the Assembly awaiting approval.

In December 2006, New York City amended its health code to require restaurants that already make calorie information publicly available for standardized menu items to post this information on menus and menu boards. The new law was scheduled to take effect on July 1, 2007, but several weeks ago the New York State Restaurant Association filed suit in the U.S. District Court for the Southern District of New York, seeking to block implementation of the law. The New York Restaurant Association's suit challenges the city code on two grounds, federal pre-emption and First Amendment. New York City has asked for amicus support from various cities and counties. In response, the San Francisco Office of the City Attorney has taken the lead in drafting an amicus brief, which must be submitted by July 5, 2007.

A number of states and localities have menu-labeling measures pending and there is a compelling need to assure that they have a right to legislate in this area.

**- M O R E -**

MOTION

MOLINA	_____
BURKE	_____
KNABE	_____
ANTONOVICH	_____
YAROSLAVSKY	_____

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JULY 3, 2007  
PAGE TWO**

**I, THEREFORE, MOVE THAT THE BOARD OF SUPERVISORS:**

Instruct County Counsel, in consultation with the Chief Executive Officer and the Department of Public Health, to take action to join the San Francisco City Attorney's amicus brief in the case New York State Restaurant Association v. New York City Board of Health, et.al., after review and concurrence by County Counsel with the legal arguments contained in the brief, in order to protect the ability of the State of California to implement nutritional labeling requirements.

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